IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17603 of 2004

Between:

M/s. Raha Poly Products Ltd., S.P. Road, Secunderabad, Rep by its Chief Executive Officer, Mr. E. Ravi Keshav

..... PETITIONER

AND

1 The Addl. Commissioner of Commercial Taxes (Legel) (FAC),

O/o. The Commissioner (CT), Commercial Taxes

Buildings, Nampally, Hyderabad.
2 The Commercial Tax Officer, Begumpet Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of a Writ of Mandamus, declaring the action of the 1st respondent in rejecting the Revision (Stay) application in his proceedings CCT's Ref.L.III(2)/565/2004, dated 24-6-2004 in respect of the assessment year 1998-99 (CST) as illegal, arbitrary and unconstitutional and in spite of the notice of hearing of stay application on 12-10-2004 in CCT's Ref L.III(2)/1655/2004, dated 19-8-2004 for the assessment year 1999-2000 (CST) issued by the 1st respondent, the action of the 2nd respondent in issuing Notice RC.No. /OA/388/04-05, dated 22-9-2004 calling upon the petitioner to pay the demanded tax of Rs. 7,00,181/- within three days for the assessment years

1998-99 to 1999-02 (CST) as illegal, arbitrary, against the principles of natural justice besides being unconstitutional in the facts and circumstances.

Counsel for the Petitioner:MR.A.K.JAISWAL

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki).

Heard learned counsel for the parties. We have gone through the order impugned in this writ petition and with the consent of the learned counsel for the parties, we dispose of this writ petition at this stage.

Pending appeals before the Tribunal, the petitioner sought stay, which has been rejected by the Additional Commissioner of Commercial Taxes (Legal), Hyderabad. We are told that out of the total disputed tax of Rs.7,00,181/-, an amount of Rs.1,57,816/- has already been paid by the petitioner. In this view of the matter, the Additional Commissioner of Commercial Taxes, in our view, should have stayed further recovery of the tax till disposal of the appeals.

Considering the overall factual situation of the case, we direct that there shall be stay of further recovery of the disputed tax till disposal of the appeals by the Tribunal, subject to the petitioner depositing an amount of Rs.2,00,000/- (Rupees Two Lakhs only), within a period of six weeks.

With these directions, the writ petition is disposed of. No order as to costs.

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(BILAL NAZKI, J)

30th September, 2004.

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(S.ANANDA REDDY, J)

Note:Issue wire at party's cost

B/o

vrn

To

1 The Addl. Commissioner of Commercial Taxes (Legel) (FAC),

O/o. The Commissioner (CT), Commercial Taxes

Buildings, Nampally, Hyderabad.

2 The Commercial Tax Officer, Begumpet Circle, Hyderabad.

3 Two C.Cs to the Government Pleader for Commercial Taxes,

High Court of A.P., Hyderabad (OUT)

4 Two C.D copies